

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION**

TERRI M. BOWEN

PLAINTIFF

VS.

CIVIL ACTION NO.: 2:10CV73-DAS

**MICHAEL J. ASTRUE,
COMMISSIONER OF SOCIAL
SECURITY ADMINISTRATION**

DEFENDANT

FINAL JUDGMENT

This cause is before the court on the Plaintiff's complaint for judicial review of an unfavorable final decision of the Commissioner of the Social Security Administration denying her claim for a Period of Disability and Disability Insurance Benefits. The parties have consented to entry of final judgment by the United States Magistrate Judge under the provisions of 28 U.S.C. § 636(c), with any appeal to the Court of Appeals for the Fifth Circuit. The court, having reviewed the administrative record, the briefs of the parties, and the applicable law and having heard oral argument, finds as follows, to-wit:

Consistent with the court's oral ruling following the parties' oral argument, the decision of the Commissioner of Social Security is not supported by substantial evidence, and the case should be remanded for further proceedings. The court found that the ALJ failed to give due consideration to the medical opinion of the claimant's treating physician, Dr. Roger Cicala. Accordingly, on remand, the ALJ shall reevaluate Dr. Cicala's opinion in accordance with the dictates of *Newton v. Apfel*, 209 F.3d 448, 453 (5th Cir. 2000). Additionally, on remand, the ALJ shall reassess the opinion of Dr. Fred Sandifer (and re-contact him if necessary) and explain any

reasons for rejecting any portions of his opinion. Ultimately, however, the court's ruling should in no way be construed as an advisory opinion in favor of a finding of disability.

IT IS, THEREFORE, ORDERED AND ADJUDGED that this case is **REVERSED** and **REMANDED** for further proceedings.

This, the 16th day of March, 2011.

/s/ David A. Sanders
U. S. MAGISTRATE JUDGE